STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS PUBLIC SERVICE CO., d/b/a AmerenCIPS	:	
Petition for special permission to place revised tariff sheets into effect on less than 45 days notice.	:	Docket No. 01-0446

ORDER

By the Commission:

On June 8, 2001, Central Illinois Public Service Company, doing business as AmerenCIPS ("CIPS" or "Company") filed a verified petition ("Petition") seeking authority to place into effect certain tariff sheets in its Ill.C.C. No. 14, reflecting changes to its Rider TC, Transition Charge, and Rider PPOS, Power Purchase Option Service, on less than 45 days' notice. The sheets for which such special permission was requested, as attached to the Petition, are Ill.C.C. No. 14, 1st Revised Sheet No. 11, 2nd Revised Sheet No. 11.001, 3rd Revised Sheet No. 11.002, 4th Revised Sheet No. 11.003, 2nd Revised Sheet No. 11.004, Original Sheet No. 11.005, 2nd Revised Sheet No. 14, 5th Revised Sheet No. 14.001, 3rd Revised Sheet No. 14.002, and Original Sheet No. 14.003.

A brief recitation of some of the history surrounding these tariffs will serve as background for the Commission's consideration of the Petition.

Background

Riders TC and PPOS were first created as a part of the Company's implementation of rates required or permitted by the provisions of Article XVI of the Public Utilities Act. Article XVI was enacted as part of Public Act 90-561, effective December 16, 1997. Generally speaking, Article XVI mandated the creation of tariffs under which Illinois electric utilities would offer delivery services to their customers on a phased-in basis to certain non-residential customers on October 1, 1999, to all non-residential customers by January 1, 2001, and to all customers by May 1, 2002. 220 ILCS 5/16-104.

Section 16-108 governs delivery services tariffs, and includes language entitling but not requiring electric utilities to implement transition charges in conjunction with the offering of delivery services. 220 ILCS 5/16-108(f). Transition charges are set in accordance with a formula prescribed as a part of the definition of "transition charges." 220

ILCS 5/16-102. The market value of electric power and energy, determined under Section 16-112, is one of the components of the statutory transition charge formula.

An electric utility is required to offer to a non-residential delivery services customer that is paying transition charges the option of purchasing electricity from it at a price equal to the sum of (i) the market values that are determined under Section 16-112 and used to calculate the customer's transition charges and (ii) a fee for administrative costs. 220 ILCS 5/16-110(b). The offering required by this Section is generally referred to as the "PPO."

Section 16-112 of the Public Utilities Act creates two basic methods for establishing the market values to be used in determining transition charges and the price of PPO electricity. One such method is a tariff filed by the electric utility that provides for a determination of market value as a function of a market traded index or similar mechanism. In the absence of such a tariff, a neutral fact-finder ("NFF") appointed by the Commission reviews contract summaries filed by electric utilities and alternative retail electric suppliers and calculates market values on the basis of such summaries. If each electric utility serving at least 300,000 customers has placed into effect a tariff that creates an index or similar methodology, the Commission can terminate the neutral fact-finder process for the periods covered by such tariffs. 220 ILCS 5/16-112(m).

CIPS's initial delivery service tariffs were placed into effect on September 24, 1999, pursuant to the Commission's Order in Docket No. 99-0121, entered on August 25, 1999. The tariffs included Rider TC, which implements a transition charge in accordance with the discretion accorded electric utilities under Section 16-108(f), and Rider PPOS, which offers the PPO to non-residential customers paying transition charges as required by Section 16-110(b).

CIPS' initial delivery service tariffs contained a Rider MV - Market Value, which calculated the market value of electric power and energy for purposes of Riders TC and PPOS using the Neutral Fact Finder (NFF) values. In May 2000, the Company filed a petition (Docket No. 00-0395) requesting permission to use a market value index (MVI) methodology instead of the NFF approach. The CIPS petition was consolidated with similar requests the Commission received from Commonwealth Edison Company ("ComEd"— Docket No. 00-0259) and Illinois Power ("IP"-- Docket No. 00-0461). Pursuant to the Commission's Order in the consolidated dockets, entered on April 11, 2001, the Company submitted a compliance filing placing into effect, on May 15, 2001, a new Rider MVI - Market Value Index of Power and Energy, which provided a market-based alternative to the NFF values.

Recent history of Riders TC and PPOS

The Company notes in the instant Petition for special permission that, in its petition in Docket No. 00-0395, it did not propose any change in its Riders TC and PPOS, but explained that, if the Commission were to approve its proposed MVI methodology, it would evaluate whether to continue to collect transition charges and to offer the PPO. Consistent with this notion, the filing in which CIPS accepted the Commission's modifications to its Rider MVI and placed that Rider into effect did not address the impact of that action on Rider MV, on Rider PPOS, or on any customer that may already have been receiving service under Rider PPOS at the NFF-derived price established in Rider MV.

The status quo as of May 2001 bears some elaboration here. Under tariffs in place during that month and previous months, any Rider PPOS customers could have applied for and taken service with the understanding that

> [t]he customer shall pay for each kWh of power and energy usage for each Service Period the market value calculated by the Company pursuant to Rider MV and in effect for that customer classification for the relevant billing cycles of the Service period. The rate calculated pursuant to MV will be revised each year beginning in 2001 with the new MV effective with the billing cycles scheduled for January 16 of each year.
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> CIPS, Ill. C.C. No. 14, Original Sheet No. 14

Such a customer would likely have signed up for PPO service under the following provisions defining certain obligations of the customer and the Company for the relevant "Service Period":

> A Customer shall give the Company thirty (30) days notice that it will take service from the Company under this Rider for the subsequent nominal twelve-month period (Service Period).
>
> * * * * *
>
> Service hereunder shall continue to renew for terms of twelve consecutive billing cycles unless terminated in accordance with this Rider or the customer is no longer paying a transition charge. If the customer is no longer paying a transition charge and the customer does not provide proper notice to either receive service from a RES or return to one of the Company's bundled services, the customer will be placed on Rider ISS [Interim Service at essentially market-plus rates] at the end of the Service Period.
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> CIPS, Ill. C. C. No. 14, 3rd Revised Sheet No. 14.001
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> The Company shall notify the customer sixty (60) days prior to the completion of a Service Period under this Rider to inform the customer of their rights and options.

CIPS, Ill. C.C. No. 14, 1st Revised Sheet No. 14.002

On May 2, 2001, the Company filed a Petition for special permission to place certain revised tariff sheets into effect on less than 45 days notice ("May 2001 Petition"), which was assigned Docket No. 01-0357. As support for the May 2001 Petition, the Company reviewed the history of Riders TC and PPOS and of Docket No. 00-0395. May 2001 Petition, Paragraphs 1-5. It restated its explanation from Docket No. 00-0395 that if the Commission approved the Company's MVI methodology, the Company would revise its Riders to coordinate with the implementation of Rider MVI. Aside from these recitations, the Company offered the following statements in support of its Petition:

> 6. To implement Rider MVI in an orderly fashion, existing Rider MV should be canceled and certain changes must be made to Riders TC and PPOS. For example, Rider MVI uses two periods, Period A and Period B. Riders TC and PPOS, as currently in effect, contemplate only a single period.
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> 7. The accompanying revised Riders TC and PPOS do not make any changes to the existing riders other than those necessary to implement Rider MVI, with two exceptions. The existing Rider PPOS contains a provision that prohibits a customer from initiating service under Rider PPOS during the summer period. In the year 2000, the Company waived operation of that provision. The accompanying revised Rider PPOS eliminates that provision. Also, Rider TC contains minor modifications to comply with the Commission's Order on uniform DS tariffs issued March 21, 2001, in Docket No. 00-0494.
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> May 2001 Petition, page 3

On May 23, 2001, the Company received approval (Special Permission Order No. 01-0357) to revise its Riders TC and PPOS. The Special Permission Order conditioned the Company's authority to revise its tariffs on the removal of references to Rider MV from Rider TC, and on certain other revisions related to the Commission's Order on uniform delivery services (Docket No. 00-0494, Order entered March 21, 2001).

On May 24, 2001, the Company filed tariff sheets pursuant to the Special Permission Order entered the previous day. The filing cancelled Rider MV, eliminated the language under which PPOS customers enrolled for "the subsequent nominal twelve-month period" following the 30 days' notice a customer gives that it will take PPOS service, and made other changes tending to make Riders TC and PPOS consonant with Rider MVI on a going-forward basis. Consistent with the May 2001 Petition and the Special Permission Order, the filing did not make any express mention of or provision for any customers already taking service under Rider PPOS as of June 1, 2001, the effective date of the new tariff sheets.

The Petition

Transition for current PPOS customers

On June 8, 2001, the Company filed the Petition considered in this Order. For the first time, the Company recites a need "to provide existing PPOS customers with a reasonable transition to other supply options." Petition, page 1. The Company seeks to include the following language in Rider PPOS:

> Customers that no longer meet the Eligibility requirements of this tariff and are taking service under this Rider as of the Date Effective shall continue taking service under this tariff through the end of their pre-existing Rider PPOS annual term. Customers that meet the Eligibility requirements of this tariff and are taking service under this Rider as of the Date Effective shall continue taking service under this tariff until completion of the current Period A terms. Notwithstanding the foregoing, customers may elect to terminate service under this Rider at any time prior to the completion of their PPOS term (subject to Service Terms and Conditions, items 4 a. through c., above).
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> During the Phase-Out Period, Customer will also be subject to Rider TC charges.

It is likely that many customers for whom the transition charge formula yielded positive transition charges when calculated under Riders TC and MV (using NFF-determined market values) would not be subject to transition charges when calculated under Riders TC and MVI, because the Rider MVI market values tend to be significantly higher than those published by the NFF for calendar 2001 and previous years. Staff has informed the Commission that CIPS indeed has a substantial number of such customers. In view of the difference between the market value under Rider MV, which was clearly applicable to these customers until at least June 1, 2001, and the market value under Rider MVI, the transition language proposed by the Company may well result in customer billings under Rider PPOS that are significantly higher than these customers would have expected under the tariffs in place as of May 31, 2001.

The Commission concludes that good cause has not been shown for the change requested by the Company as quoted above, on the basis of the facts and circumstances outlined in this Order. The Commission is concerned, however, that the absence of tariff language expressly addressing the situation will compound the uncertainty faced by current customers taking service under Rider PPOS. In analogous situations in the recent past, Illinois electric utilities have smoothed the transition from NFF-based to market index-based PPO prices by extending the availability of NFF-based rates to customers already taking service under such rates for a number of months following the creation of the market index mechanism. The Commission has reviewed the rates of ComEd, which include the following provisions:

> This Rider [PPO] is available to any nonresidential retail customer taking service under Rate RCDS – Retail Customer Delivery Service – Nonresidential (Rate RCDS), that is charged the applicable customer transition charge in Rate CTC – Customer Transition Charge (Rate CTC), and that is taking service hereunder and had commenced service hereunder prior to the initial effective date of the Company's Rider PPO – Power Purchase Option (Market Index) (Rider PPO-MI).
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> ComEd, ILL. C. C. No. 4, 1st Revised Sheet No. 141, effective May 1, 2000
>
> With the exception of retail customers paying Customer-specific CTCs, a retail customer that has commenced service hereunder prior to May 31, 2000, and has continuously taken service hereunder since such commencement of service shall be subject to the CTC calculated for the CTC Customer Class applicable to the retail customer using the [load weighted average market value] applicable to such customer class determined in accordance with the provisions of Rider PPO – Power Purchase Option(Neutral Fact Finder) (Rider PPO-NFF) for the Initial Applicable Period as defined in Rider PPO-NFF.
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> ComEd, ILL. C. C. No. 4, 1st Revised Sheet No. 138, effective May 1, 2000

From a review of the language on these rate sheets of ComEd, it would appear that PPO customers who were already taking service as such before the effective date of ComEd's market-index based tariff for determining market value were allowed to continue to receive PPO service at rates based upon the NFF determined market value until the end of the 2000 calendar year, and were required to pay transition charges based upon the NFF-determined market value for the same period.

The Commission believes good cause exists for the implementation of a transition mechanism that provides the following options:

> As of the effective date of the revised tariff, existing PPOS customers would be given a 45-day period to choose among the following options:
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> (a) As the default option, continue on PPOS, using the market index market values and transition charges, through the present Applicable Period A (which would be the customer's June 2002 meter reading);
>
> (b) Continue on PPOS, using the most recent NFF-based market values and transition charges, through the customer's December meter read or the end of their current PPOS service agreement, whichever occurs first,

effective with bills rendered for service provided after the customer's June meter reading;

(c) Return to a bundled service, effective with bills rendered for service provided after the customer's June meter reading.

(d) Any customer remaining on PPOS would be permitted to return to a bundled service with the standard notice already allowed by the Company's tariffs. Any such customer would have the option of returning to delivery services without having to wait at least 12 months, as otherwise required by the existing CIPS tariff.

Such a solution would fulfill the Company's stated goal of providing Rider PPOS customers with a reasonable transition to other supply options.

In determining for purposes of this special permission request that good cause does not exist for the Company's filing and that good cause does exist for the alternative approach to the Rider PPOS transition issue, the Commission makes no finding on the merits of any existing or potential dispute as to the meaning of past or current Company tariffs as applied to any customer or group of customers.

Suspension of Riders TC and PPOS

The Petition also seeks permission to implement on less than 45 days' notice tariff language that would suspend Riders TC and PPOS through May 31, 2003, subject to phase-out provisions for the collection transition charges, and further subject to the possibility that the Company may seek to extend the suspension period. In connection with this portion of the request, it is noted that Section 16-108(f) of the Public Utilities Act reads in part as follows:

> An electric utility shall be entitled but not required to implement transition charges in conjunction with the offering of delivery services pursuant to Section 16-104. *If an electric utility implements transition charges, it shall implement such charges for all delivery services customers* and for all customers as described in subsection (h), but shall not implement transition charges for power and energy that a retail customer takes from [certain cogeneration or self-generation facilities]. . . . *Such charges* shall be calculated as provided in Section 16-102, and *shall be collected on each kilowatt-hour delivered under a delivery services tariff to a retail customer from the date the retail customer first takes delivery services until December 31, 2006* except as provided in subsection (h) of this Section [pertaining to customers who do not take delivery services but may be required to pay transition charges].
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> 220 ILCS 16-108(f) [emphasis added]

The Commission further notes that on one occasion it expressly reserved for future decision the issue of whether an electric utility that ceases to implement transition charges may reinstate such charges. In a special permission request in Docket No. 00-0216, Central Illinois Light Company ("CILCO") sought special permission for the filing of a revised transition charge tariff sheet that contained the following language:

> The Company has chosen not to collect the transition charge by not implementing this Rider. Delivery service customers and customers identified in Section 16-108(h) will not be paying a transition charge until such time as the Implementation of Transition Charge Section of this Rider is modified in accordance with the provisions of the Public Utilities Act.

The Commission's Order Granting Special Permission, which was entered on March 15, 2000, contained the following language:

> In granting the special permission CILCO requests, the Commission is not ruling on the issue of whether Section 16-108(f) or any other provision of the Public Utilities Act does or does not permit CILCO to modify Rider DST 3 in order to implement transition charges in the future. Rather, the Commission expressly reserves this issue for future determination.

Having expressly reserved for future ruling the issue of whether a transition charge can be reinstated, once removed from operation, under any circumstances, and upon reviewing the statutory language highlighted above, the Commission is not inclined to permit the suspension and automatic reinstatement of a transition charge on the basis of a special permission request, and in the absence of a record and an opportunity for interested parties to participate fully. The Commission thus determines that good cause does not exist for the language suspending the operation of Riders TC and PPOS.

Until such time as the operation of Riders TC and PPOS is in fact terminated or suspended, there is no need to provide for a transition for customers thereby rendered ineligible for PPO service. The Commission thus determines that good cause does not exist for the language intended to phase out the transition charge and PPO for customers currently paying such charges and taking such service.

Applicable Period B issue

The Company also seeks special permission to correct current tariff language under which eligibility for the Applicable Period B PPOS (and power and energy charges derived for Applicable Periods B) is determined based upon whether the customer pays a positive transition charge computed for Applicable Period A (rather than

B). The Commission determines that good cause exists for this change, which is reflected as item 2 under “Eligibility” on the Company’s Ill. C. C. No. 14, 2nd Revised Sheet No. 14, as attached to the Petition.

Technical corrections

The Company also proposes certain additions and amendments to Rider TC that clarify, to some degree, that Rider TC uses either Period A or Period B market values, depending on whether the customer initiates delivery services within the June through August sign-up window for Applicable Period A or within the September through May sign-up window for Applicable Period B. This bifurcation is not as clear under the current tariffs. The more explicit language proposed by the Company in the Petition renders the tariff less ambiguous on this point. The Commission is concerned, however, at the possible introduction of new ambiguity into the tariffs by the use of phrases such as “relevant billing months of the Applicable Period” on Ill. C. C. No. 14, 1st Revised Sheet No. 11, “Applicable Period [A][B] shall commence subsequent to” (without defining a firm point in time) on Ill. C. C. No. 14, 5th Revised Sheet No. 14.001 and 3rd Revised Sheet No. 14.002, respectively. Hence, the Commission determines that good cause does not exist for the implementation of these changes at this time.

CONCLUSION

Good cause existing for the filing of certain tariff language described above, the Commission hereby grants to CIPS the authority to place rate sheets into effect on less than 45 days’ notice that provide as follows:

> As of the effective date of the revised tariff, existing PPOS customers would be given a 45-day period to choose among the following options:
>
> (a) As the default option, continue on PPOS, using the market index market values and transition charges, through the present Applicable Period A (which would be the customer’s June 2002 meter reading);
>
> (b) Continue on PPOS, using the most recent NFF-based market values and transition charges, through the customer’s December meter read or the end of their current PPOS service agreement, whichever occurs first, effective with bills rendered for service provided after the customer’s June meter reading;
>
> (c) Return to a bundled service, effective with bills rendered for service provided after the customer’s June meter reading.
>
> (d) Any customer remaining on PPOS would be permitted to return to a bundled service with the standard notice already allowed by the Company’s tariffs. Any such customer would have the option of returning to delivery

services without having to wait at least 12 months, as otherwise required by the existing CIPS tariff.

The Commission also hereby grants to CIPS the authority to place rate sheets into effect on less than 45 days' notice substantially in the form of item 2 under "Eligibility" on the Company's Ill. C. C. No. 14, 2nd Revised Sheet No. 14, as attached to the Petition.

This authority does not waive any of the requirements of the Commission's published rules relative to the construction and filing of tariff publications, nor any of the provisions of the Public Utilities Act except as stated herein.

This permission is void unless the rate sheets issued hereunder are filed with the Commission within thirty days from the date hereof. Such rate sheets must bear appropriate notation making reference to this authority.

By order of the Commission this 19th day of June, 2001.

Chairman

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By order of the Commission this 19th day of June, 2001.

(SIGNED) Richard L. Mathias

Chairman

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